



Ninety-Seventh Legislature - Second Session - 2002
Committee Statement
LB 944

Hearing Date: February 12, 2002

Committee On: Banking, Commerce and Insurance

Introducer(s): (Redfield)

Title: Adopt the Service Contract Companies Act

Roll Call Vote – Final Committee Action:

Advanced to General File

Advanced to General File with Amendments

X Indefinitely Postponed

Vote Results:

7	Yes	Senators Landis, Tyson, Aguilar, Bruning, Kremer, Quandahl, Smith
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No

1	Present, not voting	Senator Jensen
	Absent	

Proponents:

Senator Pam Redfield

Representing:

Introducer

Opponents:

Tim Wagner

John Dickson

Carey Potter

Korby Gilbertson

Representing:

NE Department of Insurance

Service Contract Industry Council

NE Retail Federation

Alltell Communications

NE Realtors Association

Ernie's Store, Inc.

Neutral:

Representing:

Summary of purpose and/or changes:

LB 944 (Redfield) would enact the Service Contract Companies Act in order to create a framework for regulation by the Department of Insurance of service contract providers and the issuance of service contracts. A service contract would be defined as a contract or agreement to perform or indemnify for a specific duration the repair, replacement, or maintenance of personal property for operational or structural failure due to a defect in materials or workmanship or normal wear and tear.

The bill, section by section, would provide as follows:

Section 1 would provide for a named act - - the Service Contract Companies Act.

Section 2 would declare a legislative purpose to create a framework within which service contracts may be issued, may be sold, or may cover personal property located in this state.

Section 3 would define terms.

Section 4 would require each service contract provider who provides service contracts in this state to file a registration with the Director of Insurance and pay a \$600 registration fee and a \$600 renewal fee every three years thereafter. This section would provide that the Service Contract Companies Act does not apply to: warranties; maintenance agreements; and service contracts provided under the Motor Vehicle Service Contract Reimbursement Act. This section would provide for service of process on foreign service contract providers.

Section 5 would require each service contract provider to file with the Director of Insurance evidence of proof of financial stability in the form of:

(a)(i) a surety bond, securities, cash, or letter of credit which shall have a value of not less than 5 percent of the gross annual consideration from all service contracts in force, but in no case less than \$25,000, and (ii) a funded reserve account for its liabilities under its issued and outstanding service contracts in an amount not less than 40 percent of (A) all consideration received, less claims paid or (B) the value of service contracts in force, whichever is greater;

(b) evidence that all of its service contracts are insured by a service contract reimbursement policy; or

(c) the financial statement of the service contract provider or its parent company or affiliate showing a net worth of the service contract provider or its parent company or affiliate of at least \$50 million.

Section 6 would provide that the Director of Insurance may conduct an examination of a service contract provider.

Section 7 would provider specified consumer disclosure provisions to be in each service contract.

Section 8 would provide that a service contract provider (1) shall be considered an agent of the insurer which issued a service contract reimbursement policy and shall act as a fiduciary with regard to premiums and other money received and (2) shall keep accurate accounts, books, and records.

Section 9 would prohibit false, misleading, or deceptive statements or representations, and would require each service contract provider to provide a copy of the service contract to the customer.

Section 10 would prohibit certain provisions from being included in a service contract.

Section 11 would provide for enforcement by the Director of Insurance and by the Attorney General.

Section 12 would provide the Director of Insurance with rule and regulation authority.

Section 13 would amend section 44-102.01 to provide that, under the insurance laws of this state, a service contract under the Service Contract Compliance Act is not insurance.

Section 14 would amend section 44-2402 to provide that the Nebraska Property and Liability Insurance Guaranty Association does not apply to service contract reimbursement policies.

Section 15 would amend section 44-3303 of the legal service insurance corporations statutes to provide that the insurance laws of this state, including the legal service corporation statutes, do not apply to service contracts under the Service Contract Companies Act.

Section 16 would amend 45-336 of the Nebraska Installment Sales Act to provide that retail installment contracts shall specify the amount included for the cost, if any, for service contracts subject to the Service Contract Companies Act.

Section 17 would amend section 77-2702.25 of the Nebraska Revenue Act of 1967 to provide that, for purposes of sales and use tax, the definition of maintenance agreement does not include a contract from a service contract business “registered with” the Department of Insurance.

Section 18 would provide that the bill becomes operative on July 1, 2003.

Section 19 would provide repealers.

Explanation of amendments, if any:

Senator David M. Landis, Chairperson